

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN BROWN,

Plaintiff,

v.

TAKEUCHI MFG. CO. (U.S.),
LTD.; TAKEUCHI MFG. CO. LTD,
a foreign entity; UNITED
RENTALS (NORTH AMERICA),
INC.; and UNITED RENTALS INC.

Defendants.

No. 2:21-cv-00392-JAM-DMC

ORDER DISMISSING CASE

On 06/04/2024, the Court ordered the parties to file dispositional documents regarding their settlement by 08/05/2024. See ECF No. 152. The parties then stipulated to a continuance on three occasions, ultimately pushing the filing date to 10/11/2024. See ECF Nos. 154, 156, and 158. On 11/08/2024—nearly a month after the new filing deadline—Plaintiff’s counsel filed a declaration seeking further continuance, which the Court granted, extending the deadline to 12/12/2024. See ECF Nos. 159-60. On 12/12/2024, Plaintiff’s counsel filed another declaration seeking a continuance. See ECF

1 No. 161. On 1/16/2025, after considering the Defendants'
2 response at ECF No. 163, the Court granted Plaintiff's request,
3 stating "No further extension of this March 31, 2025 deadline
4 will be granted by the court absent a showing of good cause. If
5 the settlement documents are not filed by March 31, 2025, this
6 case will be dismissed." See ECF No. 164. On 03/04/2025,
7 Plaintiff's counsel filed a declaration explaining personal
8 circumstances delaying the filing, as well as Plaintiff's reasons
9 for not signing the settlement agreement. See ECF No. 166. On
10 03/31/2025, Plaintiff's counsel filed a declaration asking for a
11 "last continuance" of 45 days. See ECF No. 167. Plaintiff has
12 not filed any dispositional documents by 03/31/2025—nearly eight
13 months after the original deadline of 08/05/2024.

14 Following Plaintiff's failure to comply with the Court's
15 order, the Court dismisses this action. In determining whether
16 to dismiss this action, the Court must weigh the Ferdik factors:
17 (1) the public's interest in expeditious resolution of
18 litigation; (2) the court's need to manage its docket; (3) the
19 risk of prejudice to defendants; (4) the availability of less
20 drastic alternatives; and (5) the public policy favoring
21 disposition of cases on their merits. See Pagtalunan v. Galaza,
22 291 F.3d 639, 642 (9th Cir. 2002) (citing Ferdik v. Bonzelet, 963
23 F.2d 1258, 1260-61 (9th Cir. 1992)). Here, the first two factors
24 favor dismissal because this case already has been delayed by
25 Plaintiff and his counsel's continuous failure to file
26 dispositional documents, and the public has an overriding
27 interest in securing "the just, speedy, and inexpensive
28 determination of every action." See Fed. R. Civ. P. 1. The

1 third factor also favors dismissal because Defendants have been
2 deprived of an opportunity to formally settle this action, and
3 Defendants asked the Court to issue an order for Plaintiff to
4 show cause as to why this action should not be dismissed,
5 indicating that they want this action dismissed. See ECF No.
6 163. Likewise, the fourth factor favors dismissal because the
7 Court already has attempted less drastic alternatives, and it
8 explicitly warned Plaintiff that it would dismiss this action for
9 failure to comply with the 03/31/2025 deadline. See ECF No.
10 164. Finally, the fifth factor favoring disposition of a case on
11 its merits is outweighed by the other Ferdik factors. Moreover,
12 it is Plaintiff and his counsel's failure to comply that
13 precludes a resolution on the merits. Accordingly, after
14 carefully evaluating the Ferdik factors, the Court concludes that
15 dismissal is appropriate. The Clerk of the Court is directed to
16 close this action.

17 IT IS SO ORDERED.

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19 Dated: April 2, 2025

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22 JOHN A. MENDEZ
23 SENIOR UNITED STATES DISTRICT JUDGE
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